

Amnesty a line in the sand? It's not even close

Published by Brandon Hamber in the Belfast Telegraph, 15 July 2021

If we know anything about the Johnson government in the UK, they are not great at sticking to agreements or taking the views of the devolved nations seriously. The recent statement by the Secretary of State, Brandon Lewis, proposing new legislation to enforce a statute of limitations for all conflict-related violations in Northern Ireland fits this mould.

In July 2019, following a 15-month consultation on the legacy proposal in the Stormont House Agreement (SHA) of 2014 agreed by all political parties, the British Government committed to its full implementation. Two years later, it is now proposing to pull the SHA apart.

The recent proposals remove a focus on justice and investigation, favouring information recovery and storytelling under an undefined banner of reconciliation. All of Northern Ireland's five main political parties, the Irish government, civil society organisations and most victims' groups are heavily critical of what amounts to an amnesty for conflict-era offences. Yet, the views of the people of Northern Ireland, and especially victims of both state and non-state violence, seem to matter little.



"The Troubles, Belfast, Northern Ireland 1970–2 Coldstream Guards" by Kaspar C CC BY-NC-SA 2.0

Ostensibly, Northern Ireland victims are less important than a Tory manifesto pledge to stop so-called “vexatious” legal cases against former British soldiers, even if the price is also a paramilitary amnesty.

Yet, the actual case for amnesty in Lewis’ statement is rather flimsy.

Firstly, Lewis points out that criminal investigations are increasingly unlikely to deliver in court. We know as time passes this is not incorrect. But because justice is unlikely, should prosecutions be abandoned? Could we imagine doing the same for other crimes such as rape because it has a low conviction rate? Choosing to abandon prosecution is not a logistical issue but a political one.

Secondly, it is stated that the current system is not working. But there is no current system. It is a mishmash of processes. No systematic and over-arching attempt has been made to deal with the past in Northern Ireland, despite a set of agreed proposals being put forward in the SHA.

Thirdly, it is implied that amnesty is the only viable route. Yet the British consultation on the SHA points out that the overwhelming view from the 17,000 responses was that amnesty was not appropriate. Two years ago, it was perfectly feasible for the other SHA mechanisms such as storytelling and information recovery to run alongside justice processes, yet suddenly this is off the table.

There are other options under discussion. For example, British soldiers remain eligible for the same deal as paramilitaries in terms of early release under the Belfast Agreement. If convicted, a maximum of two years can be served for conflict crimes. A discussion on reducing the length of this requirement to zero is an option. More radically, another option is to consider amnesty in exchange for truth as per the South African model.

Finally, Lewis argues that it is the criminal justice process that is hampering reconciliation. Is the implication that offering a blanket amnesty will lead to those who committed crimes miraculously coming forward, sharing the truth and seeking reconciliation with those they harmed? If so, this is devoid of reality.

Furthermore, contrary to Lewis’ assertion of amnesty fostering reconciliation, the British government’s own consultation on the SHA points out that curtailing the right to justice would “risk progress towards reconciliation”, not promote it.

What we also know internationally is that amnesties can create a short-term hiatus in a political process, but when justice is evaded, it simply festers and re-emerges rather than creating reconciliation.

The Spanish 1977 amnesty or “pact of forgetting”, following the Franco regime, has not stopped recent attempts to prosecute those responsible. Spain remains deeply divided. In Chile, the amnesty passed by Pinochet in 1978 was overturned in 1998. This led to dozens of prosecutions of those responsible for disappearance and torture over the following decades. Even in South Africa, there are new moves to prosecute those who did not avail of the amnesty offered by the Truth and Reconciliation Commission.

In this context, the current proposals are not the product of some difficult soul-searching and the only option left on the table. It is a cynical and calculated political move.

It fits a pattern of political evasion of truth that has been and continues to be fundamentally unjust to all victims. It demonstrates how little Northern Ireland victims mean to the UK government.

The major stumbling block to reconciliation and dealing with the past in Northern Ireland is not victims trying to exercise their rights to justice, but 50 years of avoidance, untruths and injustice.

What is needed now is courageous leadership that fulfils previous commitments and confronts the past head-on, not politicians trying to draw fanciful lines in the sand.

Far from dealing with the past, the proposed amnesty will simply redraw the battle lines for the future.

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Published by Brandon Hamber in the Belfast Telegraph, 15 July 2021. Correspondence to b.hamber@ulster.ac.uk